



HOUSE BILL 92: Repeal Land Transfer Tax

2011-2012 General Assembly

Committee:	Senate Finance	Date:	March 15, 2011
Introduced by:	Reps. Howard, Starnes, Brawley, Jordan	Prepared by:	Martha Walston
Analysis of:	First Edition		Committee Counsel

SUMMARY: *HB 92 repeals the authority granted to counties in 2007 to levy, upon approval of voters in the county, a tax on the sale of real property at the rate of up to 0.4% of the value of the property.*

[S226, as introduced by Sen. Tucker, is identical to H92 and is currently in Ref to Finance. If fav, re-ref to Rules and Operations of the Senate.]

CURRENT LAW: In 2007, legislation was enacted authorizing a board of county commissioners, by resolution and after 10 days public notice, to levy a local land transfer tax on instruments conveying interests in real property located in the county, up to a rate of 0.4%, in increments of 0.1%. The imposition of the tax is subject to voter approval in a public referendum. The tax is payable by the transferor of the property. The legislation exempts the same transfers as the State excise tax on conveyances.

To date, no county has achieved voter approval to levy this local land transfer tax, although 21 counties have conducted public referendums. The 21 counties are Ashe, Avery, Brunswick, Chatham, Clay, Davie, Gates¹, Graham, Harnett, Henderson, Hoke, Johnston, Macon, Moore, Orange, Pender, Polk, Rutherford, Swain, Tyrrell², and Union.

BILL ANALYSIS: House Bill 92 would repeal the County Land Transfer Tax Act.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: The following counties have been given the authority by the General Assembly to levy a land transfer tax on instruments conveying an interest in real property.

COUNTY	SESSION LAW	RATE	LEVY	REVENUE FY 08-09	APPEALS BOARD	USE OF FUNDS
Dare	1985-525	\$1/\$100	No Vote	\$4,037,302	Yes	Capital needs; shared with towns
Currituck	1985-670	\$1/\$100	No Vote	\$1,890,224	Yes	Capital needs
Chowan	1985-881	\$1/\$100	No Vote	\$277,266	No	Capital needs; shared with towns
Camden	1985-954	\$1/\$100	No Vote	\$261,656	No	Capital needs
Pasquotank	1989-393	\$1/\$100	Vote required	\$798,249	Yes	Capital needs
Perquimans	1989-393	\$1/\$100	Vote required	\$435,085	Yes	Capital needs
Washington ³	1989-393	\$1/\$100	Vote required	N/A	Yes	Capital needs

¹ Gates County conducted two public referendums, one on November 6, 2007 and one on May 4, 2008.

² Tyrrell County conducted two public referendums, one on May 4, 2008 and one on November 4, 2008.

³ Has been on ballot three times, but never passed.

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The State excise tax on conveyances is imposed at the rate of \$1 for each \$500 of sales price. The proceeds from this tax are distributed as follows: ½ to the county for any public purpose, and the remaining ½ to the Department of Revenue (75% goes to Parks and Recreation Trust Fund and 25% goes to Natural Heritage Trust Fund). The following transfers are exempt from the State excise tax on conveyances:

- By operation of law
- By lease for a term of years
- By will
- By intestacy
- By gift
- No consideration paid
- By merger, conversion, or consolidation
- By instrument securing indebtedness

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